

Federal Housing Finance Agency.

§ 1237.10

§ 1237.6 Authority to enforce contracts.

The conservator or receiver may enforce any contract entered into by the regulated entity pursuant to the provisions and subject to the restrictions of section 1367(d)(13) of the Safety and Soundness Act.

Subpart B—Claims

§ 1237.7 Period for determination of claims.

Before the end of the 180-day period beginning on the date on which any claim against a regulated entity is filed with the Agency as receiver, the Agency shall determine whether to allow or disallow the claim and shall notify the claimant of any determination with respect to such claim. This period may be extended by a written agreement between the claimant and the Agency as receiver, which may include an agreement to toll any applicable statute of limitations.

§ 1237.8 Alternate procedures for determination of claims.

Claimants seeking a review of the determination of claims may seek alternative dispute resolution from the Agency as receiver in lieu of a judicial determination. The Director may by order, policy statement, or directive establish alternative dispute resolution procedures for this purpose.

§ 1237.9 Priority of expenses and unsecured claims.

(a) *General.* The receiver will grant priority to unsecured claims against a regulated entity or the receiver for that regulated entity that are proven to the satisfaction of the receiver in the following order:

(1) Administrative expenses of the receiver (or an immediately preceding conservator).

(2) Any other general or senior liability of the regulated entity (that is not a liability described under paragraph (a)(3) or (a)(4) of this section).

(3) Any obligation subordinated to general creditors (that is not an obligation described under paragraph (a)(4) of this section).

(4) Any claim by current or former shareholders or members arising as a

result of their current or former status as shareholders or members, including, without limitation, any securities litigation claim. Within this priority level, the receiver shall recognize the priorities of shareholder claims *inter se*, such as that preferred shareholder claims are prior to common shareholder claims. This subparagraph (a)(4) shall not apply to any claim by a current or former member of a Federal Home Loan Bank that arises from transactions or relationships distinct from the current or former member's ownership, purchase, sale, or retention of an equity security of the Federal Home Loan Bank.

(b) *Similarly situated creditors.* All claimants that are similarly situated shall be treated in a similar manner, except that the receiver may take any action (including making payments) that does not comply with this section, if:

(1) The Director determines that such action is necessary to maximize the value of the assets of the regulated entity, to maximize the present value return from the sale or other disposition of the assets of the regulated entity, or to minimize the amount of any loss realized upon the sale or other disposition of the assets of the regulated entity; and

(2) All claimants that are similarly situated under paragraph (a) of this section receive not less than the amount such claimants would have received if the receiver liquidated the assets and liabilities of the regulated entity in receivership and such action had not been taken.

(c) *Priority determined at default.* The receiver will determine priority based on a claim's status at the time of default, such default having occurred at the time of entry into the receivership, or if a conservatorship immediately preceded the receivership, at the time of entry into the conservatorship provided the claim then existed.

Subpart C—Limited-Life Regulated Entities

§ 1237.10 Limited-life regulated entities.

(a) *Status.* The United States Government shall be considered a person for